ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 95-116
Telephone Number Portability	)	RM 8535
	)	
	)	

OPPOSITION TO PETITIONS FOR RECONSIDERATION AND/OR CLARIFICATION

GTE Service Corporation, on behalf of its affiliated domestic telephone operating and wireless companies

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SUMMARY

In the *First Report and Order* in this proceeding, the Commission adopted rules for the implementation of both interim and long-term number portability. Several parties, including GTE, requested clarification and reconsideration of several aspects of the Commission's decision. To foster competition and ensure that number portability is brought to the public as rapidly as possible, GTE urges the Commission to take the following actions in response to certain parties' requests.

First, the Commission should identify Query on Release ("QOR") as an acceptable method of providing long-term number portability. The Commission should clarify that this methodology is a beneficial enhancement to the Location Routing Number ("LRN") method, not a substitute; does not require carriers to rely on the networks of their competitors to route calls; and does not increase post-dial delay in any perceptible way. Finally, QOR offers undeniably significant cost savings. Accordingly, the Commission should permit the use of QOR within a carrier's network, as well as between consenting networks.

Second, the Commission should reject all requests to accelerate the deployment schedule for long-term number portability or to add MSAs to the initial implementation stages. The existing schedule is already aggressive and does not take into account a host of factors beyond the control of the local exchange carriers ("LECs"). A LEC's compliance with the deadlines will depend on development, testing, and deployment of switch software; upgrades to critical

operations support systems ("OSSs"); and identification of technical and interface specifications by the North American Numbering Council ("NANC"). In light of the uncertainty surrounding these critical factors, the Commission should refrain from hastening the schedule. In fact, the Commission should recognize that circumstances beyond the control of the LECs may warrant that waivers be granted to extend the implementation schedule, even in the top 100 MSAs. In addition, the Commission should allow waivers for smaller offices in the top 100 MSAs, where the LEC shows that such offices will not be subject to imminent competition.

Third, GTE supports leaving the issue of recovery of interim number portability costs to the states and private negotiations. Commission-mandated cost recovery for interim number portability is neither required by the Telecommunications Act of 1996 ("1996 Act") nor necessary. Thus, the Commission need not promulgate any rules to govern this matter. Moreover, the Commission should reject MCI's cost recovery proposal as it seeks to avoid legitimate access charges.

If the Commission decides that interim cost recovery rules are necessary, it should permit a cost pooling approach. The cost pool would be funded from two sources: (1) a uniform mandatory charge on all customers of local service; and (2) a per-call charge collected by providers of interexchange toll service from their customers. This proposed recovery method meets the statutory requirement of "competitive neutrality" and allows carriers to recover *all* of their costs.

Fourth, the record is insufficient to support imposing number portability requirements on CMRS providers. The language of the 1996 Act makes it clear that CMRS providers are not subject to number portability requirements. Moreover, the Commission has failed to identify a basis in the record for imposing such an obligation. Until the Commission develops a full and complete record, it cannot impose number portability obligations on CMRS providers.

Finally, the Commission should not consider number portability for 500 and 900 numbers at this time. As acknowledged by the Commission, there is insufficient evidence in the record to impose rules. However, if the Commission ultimately determines that portability of 500 and 900 numbers is required, it should require all carriers to comply, including IXCs.

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OPPOSITION TO PETITIONS FOR RECONSIDERATION AND/OR CLARIFICATION

GTE Service Corporation, on behalf of its affiliated domestic telephone operating and wireless companies, respectfully submits its opposition to, and comments on, certain petitions for reconsideration and/or clarification of the Commission's *First Report and Order* in this proceeding.[1]

- First, GTE disputes the assertion of one petitioner that the Commission's *First Report and Order* prohibits LECs from employing Query on Release ("QOR") to provide long-term number portability.
- Second, GTE opposes the requests to accelerate the already ambitious deployment schedule for implementing long-term number portability.
- Third, GTE objects to the promulgation of rules for the recovery of interim number portability costs.

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[1] *First Report and Order and Further Notice of Proposed Rulemaking*, 11 F.C.C. Rcd 8352 (1996) ("*First Report and Order*"). Public Notice of the Petitions for Reconsideration and Clarification was given at 61 Fed. Reg. 48154 (Sept. 12, 1996).

- Fourth, GTE agrees with Bell Atlantic's position that the record does not support the extension of number portability to CMRS.
- Finally, GTE endorses those parties asserting that neither the 1996 Act nor the record supports extending number portability to 500 and 900 numbers.

As discussed below, the Appendix to this Opposition presents modifications and clarifications to the Commission's Rules that would serve the public interest.

INTRODUCTION

The Telecommunications Act of 1996 ("1996 Act") requires all local exchange carriers ("LECs"), both incumbents and new entrants, to provide number portability, "to the extent technically feasible," in accordance with the requirements prescribed by the Commission.[2] In the *First Report and Order*, released on July 2, 1996, the Commission adopted rules for the implementation of both interim and long-term number portability.

Specifically, the Commission requires LECs to provide currently available number portability measures, such as Remote Call Forwarding ("RCF") and Direct Inward Dialing ("DID"), upon specific request from another carrier. The Commission also establishes performance criteria that must be met by any long-term number portability method selected by a LEC. Next, the Commission establishes a very rapid deployment schedule that requires all LECs to begin implementing long-term service provider portability in the 100 largest MSAs no later than October 1, 1997, and to complete deployment in those MSAs by December 31, 1998, in accordance with a

[2] 47 U.S.C. § 251(b)(2).

phased schedule. The Commission further concludes that CMRS providers must also offer number portability. As set forth in the *First Report and Order*, CMRS providers must have the capability of delivering calls from their networks to ported numbers anywhere in the country by December 31, 1998, and must offer service provider portability throughout their networks by June 30, 1999.

GTE has been actively involved throughout this proceeding and generally supports the Commission's efforts to fulfill the 1996 Act's mandate to bring number portability to the public. However, in reconsidering or clarifying certain aspects of the *First Report and Order*, GTE cautions the Commission not to acquiesce to requests that might jeopardize a LEC's ability to comply with the implementation schedule or conflict with the language and goals of the 1996 Act.

I. PETITIONER'S CLAIM THAT QOR IS NOT AN ACCEPTABLE METHOD OF IMPLEMENTING NUMBER PORTABILITY IS WITHOUT MERIT

AirTouch Communications, Inc., asserts that the Commission's performance criteria prohibit incumbents from employing QOR as a number portability methodology.[3] GTE and several others strongly dispute this interpretation. The record clearly demonstrates that QOR is an appropriate method of implementing long-term number portability, especially within a LEC's own network.[4] Accordingly, the Commission

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[3] Petition of AirTouch Communications, Inc., at 9 ("AirTouch").

[4] *See, e.g.*, Petition of Bell Atlantic at 3-10 ("Bell Atlantic"); Petition of BellSouth at 21-24 ("BellSouth"); Petition of GTE at 10 ("GTE"); Petition of NYNEX at 3-6 ("NYNEX"); Petition of Pacific Telesis Group at 2-11 ("PacTel"); Petition of SBC Communications, Inc. at 1-2 ("SBC"); Petition of United States Telephone Association at 2-10 ("USTA"); Petition of U S West at 12-15 ("U S West").

should, as a minimum, permit the use of QOR within a carrier's network and between consenting networks. GTE submits that the record supports the use of QOR as an acceptable option for the provision of long-term number portability.

AirTouch asserts that the fourth performance criterion established in the *First Report and Order* effectively precludes carriers from implementing QOR.[5] Specifically, opponents of QOR argue that this methodology would "treat ported and non-ported numbers differently."[6] GTE agrees with Bell Atlantic that none of the Commission's criteria, including the fourth, require identical treatment of ported and non-ported calls.[7] As several parties point out, the important requirement is that service quality not be discriminatory.[8] "[I]t must be acceptable for ported and non-ported numbers to be handled differently as long as there is no 'impairment of quality, reliability, or convenience.'"[9]

Moreover, if equal treatment of ported and non-ported calls is indeed a requirement, then "all number portability techniques, *including* LRN, fail, as they treat ported and non-ported numbers differently."[10] The exclusion of LRN certainly cannot be what the Commission intended. Accordingly, if the Commission decides that this

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5 AirTouch at 9.

6 *First Report and Order* at 8381.

7 Bell Atlantic at 9.

8 USTA at 8; *see also* Bell Atlantic at 9; PacTel at 10.

9 PacTel at 10 (quoting 47 U.S.C. § 153(30)).

10 Bell Atlantic at 9; *see also* PacTel at 10.

concept should be part of the performance criteria for number portability, it should accept the suggestion of parties, such as PacTel and Bell Atlantic, that the technique must ensure comparable quality, reliability, or convenience. Under this standard, both LRN and QOR would comply.

As Bell Atlantic and others show, rejection of QOR as one of several acceptable methodologies for long-term number portability would simply reflect a misunderstanding of the technical capabilities of QOR.[11] First, as many parties point out, QOR is not a replacement for LRN, but rather an enhancement.[12] Even with QOR, carriers must still implement LRN capability. As an enhancement, QOR allows the carrier using it to reduce the overall number of queries (or database dips). Second, contrary to some claims, QOR does not require carriers to rely on the networks of their competitors to route calls. The use of QOR for calls that originate on a carrier's network and that are to NXX codes assigned to that carrier do not require dependence on another carrier's network.[13] Third, QOR does not increase post-dial delay perceptibly.[14] A number of parties have shown that the post-dial delay associated with the use of QOR is virtually imperceptible to the calling party.[15]

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[11] *See, e.g.*, Bell Atlantic at 3-10; PacTel at 2-7; USTA at 2-8.

[12] *See, e.g.*, Bell Atlantic at 3; NYNEX at 4; PacTel at 2; USTA at 4.

[13] PacTel at 4; USTA at 4-5.

[14] *See, e.g.*, Bell Atlantic at 3, 6; BellSouth at 22; PacTel at 5-6; USTA at iii, 7.

[15] *See, e.g.*, Bell Atlantic at 4 (.6 seconds); PacTel at 6 (400 milliseconds); USTA at 7 (.5 seconds); U S West at 13 (500-980 milliseconds).

Any categorical rejection of QOR would also overlook the significant cost savings associated with use of this number portability technique. Indeed, contrary to the Commission's erroneous finding,[16] the record demonstrates that the cost savings that could result from QOR are quite significant.[17] Prior to the *First Report and Order*, Pacific Bell submitted figures indicating that it would save approximately $14.2 million per year, assuming that 20 percent of subscribers ported their numbers if it implemented QOR.[18] Recent Bell Atlantic and BellSouth studies demonstrate that they would achieve annual savings of some $180 million[19] and $50 million, respectively.[20] The disparity in the projected cost savings reflects differences that exist among LECs with respect to geography, switch types, demographics, and other factors. Nonetheless, one thing is clear — "these totals are significant indeed, especially when combined with the savings of other incumbent independent and RBOC LECs."[21]

The cost savings identified above are a result of the manner in which QOR handles calls. The use of QOR reduces the number of database dips (or queries), which, in turn, lowers the need for SCP capacity, signaling links, and other

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16 *First Report and Order* at 8381.

17 USTA at iii, 9-10.

18 *First Report and Order* at 8381.

19 Bell Atlantic at 5. Although Bell Atlantic has revised this figure downward based on more recent data, it indicates that the percentage savings generated by using QOR is approximately the same. Bell Atlantic at 5 n.5.

20 BellSouth at 23.

21 *Id.*

infrastructure.[22] The end result is lower investment in capital. GTE has estimated the costs of implementing number portability for its wireline exchange operations **only,** through the year 2001, to be approximately $1.136 billion.[23] Cost savings that would lower such a staggering expense cannot be overlooked. Ultimately, it is the consumer of telephone service that will have to bear the cost of less efficient number portability techniques.

In light of the foregoing, the Commission should clarify that, as a minimum, QOR is an acceptable number portability methodology that may be implemented within a carrier's network, and between networks by mutual agreement. In order to achieve the full benefit of QOR, the Commission should reconsider its *First Report and Order* and permit carriers to use QOR to provide long-term number portability. Language in the Appendix to this Opposition would clarify the ability of carriers to use QOR, within a carrier's network or where both carriers agree to its use.

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[22] *See, e.g.*, PacTel at 2; USTA at iii, 3.

[23] This cost figure only covers cost estimates for the wireline LEC operations of GTE's network and do not include number portability costs for GTE long distance or its wireless operations. A detailed breakdown of this estimate appears in Table 1 of the affidavit of Gregory L. Theus that was submitted as an attachment to the Comments filed by GTE in this proceeding. *See* Comments of GTE (filed Aug. 6, 1996).

II. REQUESTS TO ACCELERATE THE NUMBER PORTABILITY IMPLEMENTATION SCHEDULE SHOULD BE REJECTED AS UNWARRANTED

In the *First Report and Order*, the Commission established an ambitious schedule for the implementation of number portability. This schedule requires LECs to offer long-term service provider portability in the 100 largest MSAs commencing on October 7, 1997, and concluding by December 31, 1998. After December 31, 1998, LECs must provide long-term number portability in the markets below the top 100 within six months after a bona fide request by another carrier in the areas in which the requesting carrier is operating or plans to operate. Telecommunications carriers may file such requests for number portability beginning January 1, 1999.[24] Several petitioners ask the Commission to accelerate the implementation schedule for long-term number portability. Rather than advance the schedule, GTE submits that the FCC must be prepared to grant reasonable requests to extend the schedule for small end offices, or where circumstances beyond the control of the LEC make conformity impracticable.

First, a few parties urge the Commission to modify the schedule for the top 100 MSAs. NEXTLINK specifically requests that the Commission adopt a procedure to add MSAs to the initial deployment schedule.[25] American Communications Services, Inc. ("ACSI"), seeks the following changes: (1) an expedited schedule "such that all major, *i.e.*, RBOC, regions be required to introduce long-term number portability according to

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[24] *First Report and Order* at 8394.

[25] Petition of NEXTLINK Communications at 2, 5-7 ("NEXTLINK").

roughly the same schedule as a function of population served";[26] and (2) an expedited schedule for markets in the top 100 served by non-RBOC incumbent LECs.[27] In the alternative, ACSI urges the Commission to permit carriers with operational networks in the top 100 MSAs and authority to provide local exchange services to request long-term number portability from the appropriate incumbent LEC on or after July 1, 1997.[28]

ACSI and KMC Telecom, Inc. ("KMC"), also ask the Commission to divert the efforts of the LECs from the largest MSAs in order to provide early relief to smaller markets. ACSI believes that bona fide requests for MSAs below the top 100 markets should be accepted beginning July 1, 1998, instead of January 1, 1999.[29] KMC supports an even earlier time frame for accepting bona fide requests -- January 31, 1997.[30] KMC also proposes two alternate time frames for carriers outside the top 100 MSAs: (1) LECs should be required to accept immediately bona fide requests from carriers in smaller MSAs and to satisfy such requests within 24 months;[31] and (2) LECs should be required to begin accepting bona fide requests after June 30, 1998, instead of December 31, 1998.[32]

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[26] ACSI at 9-10.

[27] *Id.* at 10.

[28] *Id.* at 12.

[29] *Id.* at 10.

[30] Petition of KMC Telecom, Inc. at 5 ("KMC").

[31] *Id.* at 10.

[32] *Id.* at 12.

None of these requests has merit. The existing deployment schedule is already extremely aggressive. Attempts to hasten the deadlines completely ignore the uncertainty surrounding this new and untested technology. Further, many petitioners, including GTE, believe that the current implementation schedule overlooks many factors beyond a LEC's control that could jeopardize its ability to comply with the very tight schedule adopted by the Commission.[33] If these deadlines were shortened further the LECs' ability to implement number portability to the largest number of people in a timely fashion without jeopardizing service to the public would be seriously threatened.

For example, requiring LECs to implement number portability in the smaller MSAs sooner than the proposed target dates would divert funds, switch upgrades, and other resources from the top MSAs. Such a result is inconsistent with the goals of the Commission. The Commission established the phased-in schedule specifically to "ease[ ] the burden on carriers serving multiple regions by limiting the number of MSAs in which implementation is required during a particular calendar quarter."[34] Requiring accelerated deadlines in the smaller regions not only ignores this objective, but could potentially disrupt the overall implementation schedule.

ACSI's assertion that the existing schedule prejudices smaller markets[35] is also without merit. In arriving at the implementation schedule, the Commission considered the interests of carriers, large and small, and consumers to arrive at a reasonably

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[33] *See, e.g.*, BellSouth at 11-14; NYNEX at 7-12; GTE at 3-8.

[34] *First Report and Order* at 8395.

[35] ACSI at 7.

balanced approach. For example, the Commission's phased schedule "takes in account the differing levels of local exchange competition that are likely to emerge in the different geographic areas throughout the country."[36] Further, the Commission acknowledged that more significant upgrades may be necessary for carriers operating in smaller areas.[37] The phased schedule promotes rapid deployment of number portability. Any acceleration of the schedule would further overburden the LECs and increase the risk of unintended consequences.

An accelerated schedule also contradicts the Commission's efforts to "avoid the potential strain on vendors caused by implementation in all of the largest 100 MSAs on or around a single date."[38] Adding MSAs to the earlier phases of deployment will require additional switch upgrades. Whether vendors would be able to meet the increased demand is, of course, beyond the LECs' control. The Commission should not add to the uncertainty that already exists by expediting the schedule unnecessarily and unrealistically.

Just as the development of switch software and upgrades is a matter outside the control of the LECs, so are a number of additional factors. These factors include the development, testing, and deployment of upgrades to Operational Support Systems ("OSSs"); identification of technical and interface specifications by NANC; and state

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[36] *First Report and Order* at 8395.

[37] *Id.*

[38] *Id.* at 8395.

decisions allowing inconsistent rate centers.[39] Each may affect the ability of the LECs to meet the Commission's implementation deadlines.

For example, the Commission's implementation schedule does not allow sufficient time for testing properly the new switch software. Although the Commission has ordered the Illinois Local Number Portability Workshop to conduct a field test in the Chicago area,[40] the value of this test is limited unless the FCC allows sufficient time *after* test completion to incorporate the results in the design of number portability systems. The time frame established by the Commission does not provide any period for evaluation of the results and implementation of number portability strategies by other carriers. The test participants must complete the test by August 31, 1997, and deliver a report to the Commission within thirty days of completion of the test.[41] If the test ends on August 31, 1997, the report is due on September 30, 1997. The following day LECs must commence implementation of long-term number portability in compliance with the Commission's Rules.[42] This tight schedule leaves insufficient time for LECs to take corrective action.

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[39] GTE will not rehash how each factor could impact the implementation schedule. For a complete discussion, *see* GTE at 3-8.

[40] *First Report and Order* at 8393-94.

[41] *Id.*

[42] NYNEX at 12.

Moreover, as NYNEX points out, the Illinois Field Test may not provide many LECs help in meeting the schedule.[43] The Chicago trial tests only a small subset of switching software in limited configurations. Because all LECs are configured differently and utilize different types of switches, the value of the Illinois Field Test may vary widely among non-participants. Accordingly, GTE recommends that the Commission grant those LECs that do not participate in the Chicago trial an additional three to six months to commence the deployment of long-term number portability. This extension will allow LECs to conduct their own tests based on the outcome of the Illinois Field Test, thereby, ensuring greater network reliability.

In the alternative, GTE supports NYNEX's recommendation that the Commission select other areas to participate in trial tests. This approach would provide the Commission with a variety of data to evaluate. Increased data from different sources would allow the Commission and the LECs to make more informed decisions regarding the most efficient and reliable methods of implementing long-term number portability.

Another factor that threatens to derail the Commission's implementation schedule is the delay in establishing NANC.[44] The Commission has charged NANC with several pivotal assignments related to the implementation of long-term number portability, including: (1) selecting one or more local number portability administrators;[45] (2) determining the geographic coverage and location of the regional databases;

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[43] *Id.*

[44] *See, e.g.*, BellSouth at 15-16; GTE at 6-7; NYNEX at 11.

[45] *First Report and Order* at 8401.

(3) specifying technical interoperability and operational standards; (4) dictating the user interface between telecommunications carriers and the administrator(s) and the network interface between the SMS and downstream databases; and (5) developing technical specifications for the regional databases.[46] Even though the Commission has charged NANC with these critical tasks, NANC has yet to hold its first meeting. As a result, GTE is concerned that NANC may not be able to fulfill its directives in time for LECs to test the software and develop the upgrades, administrative procedures, and databases necessary to support number portability.

Rather than making the requirements more onerous by accelerating the schedule, the Commission should allow the LECs more flexibility. First, the Commission should clearly recognize that circumstances beyond the control of the LECs may dictate that waivers be granted extending the schedule for long-term number portability, even in the top 100 MSAs. Second, the Commission should permit LECs to use QOR, which will potentially help carriers meet the aggressive deployment schedule established by the Commission. As discussed above, the reduction in overall costs associated with QOR, coupled with its robust nature, could improve the likelihood of meeting the deployment deadlines.

In addition to waivers of the schedule for circumstances beyond the LECs' control and the use of QOR generally, the Commission should establish a process for exempting smaller offices in the top 100 MSAs from the deployment deadlines.[47]

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[46] *Id.* at 8402.

[47] *See* GTE at 8-10.

Waivers of compliance with the deadline are warranted where it is evident that competitive entry in a particular area will not be immediate, and where implementation of long-term number portability would require significant network upgrades. GTE proposes that LECs be required to coordinate with prospective entrants and the affected state PUC to develop a record. If no entrant expresses an immediate interest in entry, and if the state PUC does not object, then the LEC should be entitled to present a waiver petition to the Commission with the expectation that it will be granted. Following grant, the LEC would not be required to implement long-term number portability until six months after a request from a competing carrier, assuming the switch already has SS7 and AIN capabilities.

This limited waiver policy offers several public interest benefits. It would enable LECs that have a mix of more densely populated and less densely populated service areas to devote their resources to upgrading offices in areas where competition will develop most quickly. This fact is important because the equipment in many smaller offices will require expensive upgrades to support long-term number portability. The waiver policy would not impede competition because LECs would commit to coordinate with prospective entrants before filing for waiver with respect to a particular office.

Under both of these circumstances -- conditions beyond the control of the LEC and small offices not subject to immediate competitive entry -- the Chief, Common Carrier Bureau, should be delegated authority to grant prompt waivers of the rules. Language to accomplish this objective is contained in the Appendix.

GTE also supports BellSouth's request that the Commission extend the implementation interval for Phase I and Phase II from 90 days to 180 days.[48] This extension of time is a reasonable request. During the early phases of deploying this new technology, LECs inevitably will encounter unforeseen problems. Extending the interval would allow LECs to deal with any problems that may arise and develop solutions that would make later deployments more efficient.

III. RULES REGARDING THE RECOVERY OF INTERIM NUMBER PORTABILITY COSTS ARE NOT REQUIRED BY THE 1996 ACT AND, IN ANY EVENT, ARE UNNECESSARY

Bell Atlantic demonstrates that the Commission should not interfere with methods adopted by states to recover interim number portability costs.[49] GTE concurs. The 1996 Act does not expressly require cost recovery for interim number portability. As SBC points out,[50] the statute mandates only that the "cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."[51] The only aspect of interim number portability that the 1996 Act addresses is the different types of interim methods, such as remote call

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[48] *See* BellSouth at 10-11.

[49] Bell Atlantic at 11.

[50] SBC at 5.

[51] 47 U.S.C. § 251(e)(2).

forwarding or direct inward dialing.[52] However, this section is silent on the issue of cost recovery for interim number portability measures.[53] In light of the absence of express language mandating cost recovery for interim number portability, and for the additional reasons discussed below, the Commission should refrain from implementing any detailed requirements.

GTE and others urge the Commission to leave matters of interim number portability cost recovery to the states and the individual carriers. As the Commission recognizes, there is substantial variation in the types of cost recovery methods in use today.[54] This flexibility should continue. States should continue to be responsible for addressing interim number portability cost recovery issues. In addition, the Commission should allow parties to continue to enter into mutually acceptable agreements to recover the costs of interim number portability.

States are better equipped to address interim cost recovery issues than the Commission. "The States have been dealing with interim number portability issues for a long time. In fully litigated proceedings, they have developed plans for paying for these costs. They have heard all the claims of competitive neutrality, and they have crafted plans designed to be fair."[55] There is no reason to disregard the efforts to date and revamp a system that works.

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[52] 47 U.S.C. § 271(c)(2)(xi).

[53] SBC at 5.

[54] *See First Report and Order* at 8416, 8418.

[55] SBC at 11.

Individualized negotiations are also an integral part of this system. Even the Commission acknowledges that "incumbents and new entrants have voluntarily negotiated a variety of cost methods." Neither states nor carriers should be forced to abandon proven cost recovery mechanisms, negotiated agreements, or efforts that may be in various stages of implementation. In light of the brief period during which interim number portability will exist, valuable state experience in this area, and the success of voluntarily negotiated agreements, the Commission need not adopt any rules governing interim number portability cost recovery.

However, if the Commission determines that rules for interim number portability cost recovery are necessary, GTE urges the Commission to identify cost pooling as a competitively neutral mechanism that complies with the *First Report and Order.*[56] GTE recommended this cost pooling mechanism for long-term number portability and, as stated in its Petition, believes that this method is equally appropriate for recovering the costs of interim number portability. The proposed cost pool would be funded from two sources: (1) a uniform, mandatory charge on all customers of local service; and (2) a per-call charge collected by providers of interexchange toll service from their customers.[57] This proposed recovery method meets the statutory requirement of

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[56] In the *First Report and Order*, the Commission concluded that any "competitively neutral" cost recovery mechanism: (1) should not give one service provider an appreciable cost advantage over another service provider, when competing for a specific subscriber; and (2) should not have a disparate effect on the ability of competing service providers to earn normal returns on their investment. *First Report and Order* at 8420, 8421.

[57] For a detailed description of the operation and administration of GTE's proposed cost pooling mechanism, *see* GTE at 11-16.

competitive neutrality and allows carriers to recover *all* of their costs.

GTE, however, objects to MCI's proposal for interim number portability cost recovery. MCI submits that additional switching and transport costs caused by interim number portability should be allocated as incremental costs and recovered through a surcharge based on each carrier's share of total telephone numbers or access lines in the portability area.[58]

GTE agrees with the Commission and MCI that the forwarding and terminating carriers should share the access revenues received for a ported call, because both carriers' facilities are used to terminate the interexchange call.[59] However, additional switching and transport costs incurred as a result of ported numbers are costs of exchange access and should be borne by the IXC as part of access under interim and long-term number portability. In effect, the first switching office to which traffic is offered by the IXC becomes a tandem office. The IXCs are required to pay the charges associated with tandem switching, local transport, end-office switching, and local loop delivery of traffic. This result is not changed by the fact that the LECs are employing RCF or DID to transfer ported calls to a different LEC. There is no justification for burdening the incumbent LECs with these costs of exchange access that benefit only the IXCs. Accordingly, the Commission should reject MCI's attempt to shift IXC costs to the LECs.

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[58] MCI Telecommunications Corp. and MCIMetro at 3-5 ("MCI").

[59] *See First Report and Order* at 8424; GTE at 19; MCI at 3.

IV. THE RECORD IS INSUFFICIENT TO SUPPORT IMPOSING NUMBER PORTABILITY REQUIREMENTS ON CMRS PROVIDERS

A number of petitioners address number portability in the CMRS environment.[60] Specifically, Bell Atlantic NYNEX Mobile ("BANM") asserts that: (1) the *First Report and Order* conflicts with Congressional and Commission policy toward CMRS;[61] (2) the record does not support the imposition of rules for wireless number portability;[62] (3) the compliance deadline for CMRS providers is stricter than for landline carriers;[63] and (4) if the Commission retains CMRS number portability rules, it should preempt state number portability requirements on CMRS carriers.[64] GTE fully endorses Bell Atlantic's analysis of the CMRS issues.

First, as BANM points out, the 1996 Act provides no basis for imposing number portability obligations on CMRS providers.[65] Under Section 251(b)(2), local exchange carriers must provide number portability to all telecommunications carriers. However, the 1996 Act "explicitly excludes commercial mobile service providers from the definition of local exchange carrier, and thus . . . from the obligation to provide number

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[60] *See, e.g.*, Petition of Bell Atlantic NYNEX Mobile at 1-12 ("BANM"); Petition of Cellular Telecommunications Industry Association at 1, 3 ("CTIA"); GTE at 21-24; PacTel at 15; SBC at 12-14.

[61] BANM at 2-5.

[62] *Id.* at 5-8.

[63] *Id.* at 8-10.

[64] *Id.* at 10-12.

[65] *Id.* at 3.